

## **9 FAM 41.42 Notes**

(TL:VISA-2 8-30-87)

### **9 FAM 41.42 N1 Crew-List Visa to Include Only Bona Fide Crewmen**

The consular officer should be alert to any attempted inclusion in the crew-list visa of members of a ship's crew traveling to the United States as passengers and not eligible for listing in the crew-list visa. If, for example, the normal complement of a vessel is 56 but a crew list is presented for visaing which includes 35 extra persons, the consular officer should inquire as to the purpose for which the additional persons are on board so that appropriate visas may be issued to them. Should there be any question as to the normal complement of the vessel, the officer can request the master to present the ship's register or other document showing authorized complement. [See 22 CFR 41.41 N2, for determination of eligibility for classification as crewman.]

### **9 FAM 41.42 N2 Place of Application**

It would be preferable for crew-list visas to be issued by the consular nearest the home port of the vessel or aircraft, since that office would ordinarily have the most information regarding the alien crewmen on board. Accordingly, masters of vessels, aircraft captains, or authorized agents applying for visa services in or near the home port of the vessel or aircraft should not be referred to another office. However, officers should not withhold visa services because a crew-list visa was not obtained from the consular office nearest the home port of the vessel or aircraft.

### **9 FAM 41.42 N3 Compliance with Requirements of 22 CFR 41.42(b)(1)**

#### **9 FAM 41.42 N3.1 Procedure for Vessels or Aircraft Departing Regularly from the Same Foreign Port**

In cases of vessels or aircraft which depart regularly from the same foreign port with resultant repeated applications for crew-list visas at the same consular office, the submission of master lists of all crewmen employed on vessels or aircraft concerned, arranged in alphabetical order and containing the required identifying information, may be accepted as constituting substantial compliance with the second sentence of 22 CFR 41.42(b)(1).

Where a master list has been submitted it will only be necessary to include the required identifying data on the file copy of Form I-418 for crewmen not included in the master list or supplements thereto. Such master lists should be retained at the consular office for appropriate use for 1 year, following which revised lists must be submitted by the masters of vessels or authorized agents.

### **9 FAM 41.42 N3.2 Alternative Procedure**

As an alternative to the procedure outlined in 9 FAM 41.42 N3.1, officers or agents of vessels for which subsequent crew-list visa applications are going to be made at the same consular office may submit, at the time of the original application for a crew-list visa, an extra copy of the Form I-418 containing the required identifying data. This copy is to be kept on file for 1 year for use in subsequent applications made for the same vessel or aircraft. In such cases, it will only be necessary to include in the Form I-418 submitted with subsequent applications, the identifying data on crewmen not included in the original I-418. After 1 year a new Form I-418 must be submitted containing identifying data on all crewmen. An extra copy may again be included for retention by the consular officer and similar use during the next 12 months.

### **9 FAM 41.42 N3.3 Simultaneous Issuance of Two or More Crew-List Visas**

For instructions regarding the simultaneous issuance of two or more crew-list visas see 9 FAM 41.42 PN3.1 to this section.

### **9 FAM 41.42 N4 Waivers of Crew-List Visas**

Applications for waivers of crew-list visas are made under 22 CFR 41.2(j). The Department has given advance concurrence to immigration inspectors at ports of entry for the granting of waivers to alien crewmen arriving on vessels without a crew-list visa when this is due to: (1) departure of the vessel from a port where no U.S. consular services are available, (2) diversion of the vessel at sea to a U.S. port when it was originally destined to a foreign port, or (3) other unanticipated conditions accepted by the immigration inspector as valid reasons for a waiver. The waiver authority is exercised only after the names of all crewmen have been checked against the visa lookout system and normal inspection procedures have been carried out.

## **9 FAM 41.42 N5 Exclusion of Ineligible Crewmen From Crew-List Visas**

The consular officer should exclude from a crew-list visa the names of all crewman believed ineligible for nonimmigrant visas. A crewman should not be excluded however, solely because the crewman has been previously refused a landing permit unless there is substantial evidence that the refusal was based on grounds other than that the alien was not considered by the immigration authorities to be a bona fide crewman. A previous exclusion on this ground would not preclude the alien from qualifying for a landing permit at a later date.

## **9 FAM 41.42 N6 Member of a Ship's Crew Excluded From Crew List or Found Ineligible at Port of Entry**

Crew members determined at the port of entry to be ineligible, or who have been excluded from a crew-list visa, are detained aboard the vessel while it is in port. The shipping line is not subject to fine but may be required to post guard to prevent the ineligible alien from debarking.

## **9 FAM 41.42 N7 Informing Agents of Desirability of Obtaining Crew- List Visa**

Consular officers should impress upon agents the importance of obtaining a crew-list visa, pointing out the undesirable consequences of an INS determination at the port of entry that a waiver was not merited since there was no valid reason why a crew-list visa had not been obtained. Consular officers also should emphasize to shipping companies, especially those which regularly put in to ports where no consular office is located, the desirability of having crew members obtain individual D visas. [See 22 CFR 41.41 N1.]

## **9 FAM 41.42 N8 Status of Form I-184, Alien Crewman Landing Permit and Identification Card**

[See 22 CFR 41.41 N8.]

## **9 FAM 41.42 N9 Issuance of Crew-List Visas for Vessels and Aircraft of Communist-Controlled Countries Other Than Yugoslavia**

[See 9 FAM PART IV Appendix A and 9 FAM PART IV, for instructions regarding VISAS IBEX messages.]

## **9 FAM 41.42 N10 “American Vessel” Defined**

The term “American vessel” is defined in Appendix B/C/E under the Schedule of Fees for Consular Services as follows: “The term ‘American vessels’ is defined to exclude, for the purposes of this schedule, undocumented American vessels and the fees prescribed herein shall be charged and collected for such undocumented vessels. However, the fees prescribed herein shall not be charged or collected for American public vessels, which includes any vessels owned or operated by a U.S. Government department or agency and engaged exclusively in official business on a noncommercial basis.”